

Minutes of the
Board of Minerals and Environment Meeting
Matthew Environmental Education and Training Center
523 East Capitol
Pierre, South Dakota

10:00 a.m. CST
January 14, 2004

CALL TO ORDER AND ROLL CALL: Chairman Richard C. Sweetman called the meeting to order. Secretary Kathy Johnson noted that a quorum was present.

BOARD MEMBERS PRESENT: Richard Sweetman, Lee McCahren, Kathy Johnson, Wilbert Blumhardt, Chuck Monson, Linda Hilde, and Pat Healy.

BOARD MEMBERS ABSENT: Mike DeMersseman and Brian Radke.

OTHERS: See attached attendance sheet.

APPROVAL OF MINUTES FROM NOVEMBER 20, 2003, MEETING: Motion by Monson, seconded by Blumhardt, to approve the minutes from the November 20, 2003, Board of Minerals and Environment meeting as mailed. Motion carried.

SURFACE MINING ISSUES: Eric Holm was administered the oath by Lee McCahren. He testified regarding transfers of liability and releases of liability (see attached matrix sheet).

Transfer of Liability: Motion by Johnson, seconded by Blumhardt, to transfer liability for one site in Butte County from Spearfish Excavating, Inc., Spearfish, SD, Mine License No. 96-576 to Aggregate Construction, Inc., Minot, ND, Mine License No. 89-382. Motion carried.

Release of Liability: Motion by Healy, seconded by Monson, to release liability for Jerauld County Highway Department, Wessington Springs, SD, Mine License No. 83-80, one site in Jerauld County; and to release liability for John A. Carlson, Inc., Winner, SD, Mine License No. 83-1, one site in Tripp County. Motion carried.

OIL AND GAS HEARING FOR NO. 4-2003 AND NO. 5-3003, LUFF EXPLORATION COMPANY: Chairman Sweetman turned the gavel over to Lee McCahren who had been appointed hearing chairman.

Mr. McCahren opened the hearing at 10:30 a.m.

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The purpose of the hearing was to consider the following two cases:

Case No. 4-2003 in the matter of the application of Luff Exploration Company to amend the applicable orders of the Board for the Corey Butte Field so as to form a single spacing unit consisting of all of Sections 21 and 22, Township 23 North, Range 6 East of the Black Hills Meridian, Harding County, SD, and to allow the drilling of multiple horizontal laterals into the Red River "B" zone at any location not closer than 660 feet to the boundary of said spacing unit, to authorize the issuance of a permit to Luff Exploration Company for drilling such horizontal well.

Case No. 5-2003 in the matter of the application of Luff Exploration Company to amend the applicable orders of the Board for the East Harding Springs Field so as to form a single spacing unit consisting of all of Sections 19 and 20, Township 23 North, Range 6 East of the Black Hills Meridian, Harding County, SD, and to allow the drilling of multiple horizontal laterals into the Red River "B" zone at any location not closer than 660 feet to the boundary of said spacing unit, to authorize the issuance of a permit to Luff Exploration Company for drilling such a horizontal well.

Mr. McCahren reported that he received a letter from Lawrence Bender, attorney for Continental Resources, stating that Luff Exploration Company and Continental Resources had reached an agreement, and Continental withdrew its petition to intervene in this matter.

Roxanne Giedd, assistant attorney general, represented the Department of Environment and Natural Resources.

John Morrison, attorney from Bismarck, ND, represented Luff Exploration Company. Brett Koenecke, attorney from Pierre, appeared as local counsel for Luff Exploration Company.

Ms. Giedd stated that Max Main, attorney from Belle Fourche, had filed a petition to intervene on behalf of his clients, Paul and Sandy White. Mr. Main called Ms. Giedd on January 13, 2004, and indicated that his clients no longer wished to participate in this matter.

Richard George, manager of engineering, was administered the oath by Mr. McCahren and testified on behalf of Luff Exploration Company.

Exhibits offered and received into the record for Luff Exploration Company:

Exhibit 1 - General location map

Exhibit 2 - Map showing requested spacing units

Exhibit 3 - Map showing 660 foot set back

Exhibit 4 - Summary of Luff Exploration Company's requests for No. 4-2003 and 5-2003

Exhibit 5 - Chart showing working interest and royalty owners in Sections 19 and 20 only, and the combination of owners in both sections

Exhibit 6 - Chart showing working interest and royalty owners in Sections 21 and 22 only, and the combination of owners in both sections

Exhibit 7 - Regional Red River "B" depth structure map showing requested spacing units

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- Exhibit 8 - Methodology of Exhibit 7 with seismic lines
- Exhibit 9 - Stratigraphic cross section of three wells closest to requested spacing units
- Exhibit 10 - Development History of the Dworshak 1-19
- Exhibit 11 - Monthly production curve of oil and water for the Dworshak 1-19
- Exhibit 12 - Water cut curve for the Dworshak 1-19
- Exhibit 13 - Horizontal well completion for the 1-30 Dworshak
- Exhibit 14 - Water cut curve for the 1-30 Dworshak
- Exhibit 15 - Monthly rate time curve for the 1-27 Miller
- Exhibit 16 - Water cut curve for the 1-27 Miller
- Exhibit 17 - Summary of drilling technologies used by Luff Exploration Company in Harding County, SD and Bowman County, ND
- Exhibit 18 - Normalized monthly oil production curve from Dworshak 1-30 and Miller 1-27 horizontal "B" zone re-entries
- Exhibit 19 - Monthly oil production curve using a somewhat higher initial potential for Dworshak 1-30 and Miller 1-27 horizontal "B" zone re-entries
- Exhibit 20 - Pre-tax drilling economics for East Harding Springs and Corey Butte
- Exhibit 21 - Luff's setback requests are consistent with previous requests
- Exhibit 22 - Luff's requested spacing units optimum for secondary recovery as well as primary recovery
- Exhibit 23 - Summary of Luff's requests for Case Nos. 4-2003 and 5-2003

Fred Steece, oil and gas supervisor, was administered the oath by Lee McCahren and testified on behalf of the Department of Environment and Natural Resources.

Notice of the public hearing was published on October 22 and 29, 2003, in the Pierre Capital Journal, the Rapid City Journal, the Black Hills Pioneer, and the Nation's Center News. Affidavits of Publication are on file at the DENR office in Rapid City.

Mr. Morrison presented the Findings of Fact, Conclusions of Law and Order for Case No. 4-2003 and 5-2003.

Motion by Monson, seconded by Healy, to approve Luff Exploration Company's applications for Case No. 4-2003 and Case No. 5-2003, to approve the Findings of Fact and Conclusions of Law, and to authorize Mr. McCahren to execute the Orders. Motion carried.

PRESENTATION ON OIL AND GAS INITIATIVE: Fred Steece provided information on the oil and gas initiative. The purpose of this initiative is to promote oil and gas exploration, production and development in the state in concert with Governor Rounds' economic development plan.

Mr. Steece provided the board with the work plan to compile, format, and disseminate information pertinent to the exploration and development of oil and gas in South Dakota.

REQUEST PERMISSION TO ADVERTISE FOR HEARING THE ADDITION OF A NEW CHAPTER TO ARSD 74:10 -OIL AND GAS CONSERVATION: Mr. Steece stated that the department proposes to add a new chapter (74:10:11:02), which will address the compensation for risk in developing oil and gas fields in cases of forced pooling and unitization.

Mr. Steece requested permission to advertise for a public hearing to be held on April 15, 2004.

Motion by McCahren, seconded by Johnson, to authorize the department to advertise for a public hearing on April 15, 2004, to consider the addition of new chapter 74:10:11:02. Motion carried.

Mr. Steece presented the board with a copy of House Bill 1014, an act to reduce the percentage of owners required to ratify an oil and gas unit from 75% to 60%. Mr. Steece noted that making this change in South Dakota will bring consistency to oil and gas development opportunities near the North Dakota border. Making this change will also encourage more exploration and increase production of oil and gas resources in South Dakota while protecting all owners rights and preventing the drilling of unnecessary wells.

MINE RECLAMATION SURETY FORFEITURES FOR GENE STEFFES, BRISTOL, SD AND HERRICK SERVICES, ROSLYN, SD: Thomas Cline, DENR project scientist, was administered the oath by Lee McCahren.

Mr. Cline testified that Mike Herrick, dba Herrick Services, was issued Mine License No. 98-641 on April 3, 1998. The license was revoked on November 20, 2000, for failure to submit annual reports.

Mr. Cline presented photos showing the two sites in Day County and showing that Mr. Herrick has not completed reclamation of the lands affected by his mining operation under this license. Mr. Cline noted that he had taken the photos during an inspection of the sites on October 14, 2003. Reclamation work that remains to be done at the sites includes fencing, barricading, regrading, and revegetation.

As guarantee for the reclamation under this mine license, Herrick submitted Certificate of Deposit No. 5202575, Dacotah Bank, Roslyn, SD, in the amount of \$1,000.

The department requested that the board declare the \$1,000 Certificate of Deposit forfeited, and that the \$1,000 be utilized by the Department of Environment and Natural Resources for reclamation activities at the land affected by mining operations conducted under Mine License No. 98-641.

Mr. Cline testified that Gene Steffes was issued Mine License No. 83-251 on November 23, 1983. Mining activities were conducted under this license at various sites, for which reclamation liability was transferred to other operators in 2002. Mr. Steffes remains liable for reclamation activities at one site in Codington County. Mr. Steffes' mine license was revoked on June 30, 2003, for failure to reclaim the last mine site.

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To guarantee reclamation under Mine License No. 83-251, Mr. Steffes submitted Certificate of Deposit No. 13107757, First Savings Bank, Bristol, SD, in the amount of \$500.

Mr. Cline noted that Mr. Steffes voluntarily forfeited the \$500 Certificate of Deposit to the Department of Environment and Natural Resources to reclaim this site.

Roxanne Giedd offered State Exhibit 1, a copy of the forfeiture document signed by Gene and Joan Steffes. The exhibit was received into the record.

Mr. Cline presented photos showing the mine site in Codington County and showing that Mr. Steffes has not completed reclamation of the lands affected by his mining operation under this license. Mr. Cline noted that he had taken the photos during an inspection of the site on October 14, 2003. Reclamation work that remains to be done at the sites includes fencing, barricading, regrading, and revegetation.

The department requested that the board declare the \$500 Certificate of Deposit forfeited, and that the \$500 be utilized by the Department of Environment and Natural Resources for reclamation activities affected by mining operations conducted under Mine License No. 83-251.

Mr. Cline stated that the amount of the two forfeitures is not enough to reclaim each respective site. He noted that in May 2003, the board approved a plan to reclaim several mine sites using the Special Reclamation fund and funds from forfeited reclamation bonds. During the May 2003 board meeting, staff indicated that sometime in the future the department intended to request bond forfeitures for Herrick Services' two sites and the remaining site for Gene Steffes.

Pat Healy asked the staff to provide an estimated cost to reclaim the two sites.

Mr. Cline stated that it will cost approximately \$3,100 to reclaim the Herricks site and approximately \$500 for the Steffes site.

Ms. Giedd presented Findings of Fact and Conclusions of Law for both bond forfeitures.

Motion by Healy, seconded by Blumhardt, to adopt the Findings of Fact, Conclusions of Law and Orders for the forfeiture of the reclamation bonds for Herrick Services, Mine License No. 98-641 and Gene Steffes, Mine License No. 83-251, and to authorize Chairman Sweetman to execute the Orders. Motion carried.

OTHER ITEMS OF BUSINESS: Mr. McCahren stated that William Taylor, attorney from Sioux Falls, submitted a petition on behalf of Broin and Associates, Inc. for an Order to show cause, or in the alternative, a contested case hearing and declaratory ruling. Mr. Taylor had requested that the board hear this matter on January 15, 2004.

Roxanne Giedd, on behalf of the department, filed a motion for scheduling order.

Ms. Giedd stated that this will be a two-day hearing. She suggested the hearing take place during the March 17-18, 2004 meeting in Pierre.

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Ms. Giedd and Mr. Taylor will work together in establishing a proposed scheduling order.

Linda Hilde stated that she would not participate in the hearing due to a conflict of interest.

Motion by Monson, seconded by Hilde, to appoint Lee McCahren as hearing chairman for the Broin matter. Motion carried.

Upcoming Board Meetings: There will be no February board meeting. The next meeting is scheduled for March 17-18, 2004, in Pierre.


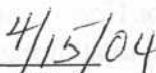
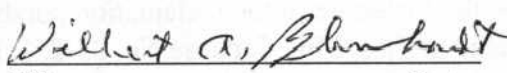
Dakota Improvement Company Surety Forfeiture: Ms. Giedd reported that Dakota Improvement Company holds a surety bond with Great American Insurance Company for the reclamation of its mine site. Ms. Giedd said staff contacted the surety company, and the company is willing to release the \$2,000 to the department as soon as the Final Release and Assignment Waiver is signed and approved.

Several of the board members expressed concern that some mine license holders choose to walk away from a mine site rather than fulfill the reclamation requirements, because it is cheaper for them to just walk away and let the state reclaim the land.

Mike Erickson stated that Dakota Improvement Company's license was revoked in 1985.

Motion by Healy, seconded by Hilde, to declare Dakota Improvement Company's Surety Bond No. 390 46 26 with Great American Insurance Company in the amount of \$2,000 forfeited, to approve the final release and assignment of the surety, and to transfer proceeds to the Mined Land Reclamation Fund. Motion carried.

ADJOURNMENT: Chairman Sweetman declared the meeting adjourned.

		
Secretary	Date	Witness Date

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License/Permit Holder	License Permit	Site No.	Surety Amt.	Surety No.	Surety Company/Bank	DENR Recommendation,
Transfer of Liability:						
Spearfish Excavating Inc. Spearfish, SD	96-576		\$20,000	55-164588	United Fire & Casualty Company	Transfer liability.
		576001	NE1/4 SE1/4 Section 33; T9N-R3E, Butte			
Transfer to:						
Aggregate Construction, Inc. Minot, ND	89-382		\$20,000	040 40 95	Great American Insurance Company	
Release of Liability:						
John A. Carlson, Inc. Winner, SD	83-1		\$20,000	55-110414	United Fire & Casualty Company	Release liability
		1002	W1/2 Section 19; T100N-R74W, Tripp			
Jerauld County Highway Department Wessington Springs, SD	83-80		EXEMPT	NA	NA	Release liability.
		80046	SW1/4 Section 13; T106N-R64W, Jerauld			
Surety Forfeiture:						
Dakota Improvement Co. Lake Norden, SD	83-52		\$2,000	390 46 26	Great American Insurance Company	Declare Bond No. 390 46 26 forfeited and transfer proceeds to Mined Land Reclamation Fund.
		52001	E1/2 NW1/4 & N1/2 NE1/4 Section 19; T113N-R50W, Deuel			

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<u>License/Permit Holder</u>	<u>License/ Permit</u>	<u>Site No.</u>	<u>Surety Amt.,</u>	<u>Surety No.</u>	<u>Surety Company / Bank</u>	<u>DENR Recommendation</u>
Surety Forfeitures:						
Herrick Services Roslyn, SD	98-641		\$1,000	5202575	Dacotah Bank, Roslyn	Declare CD 5202575 forfeited and transfer proceeds to Mined Land Reclamation Fund.
		641001	NW1/4 Section 22; T124N-R55W, Day			
		641002	NE1/4 Section 1; T123N-R53W, Day			
Gene Steffes Bristol, SD	83-251		\$500	13107757	First Savings Bank, Bristol	Declare CD 13107757 forfeited and transfer proceeds to Mined Land Reclamation Fund.
		251005	SE1/4 Section 27; T118N-R54W, Codington			